

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. AC-97-54
)	
ROBERT J. HOUSTON)	OAH No. N-1998030336
420 S. Beverly Drive #200)	
Beverly Hills, CA 90212)	
Certified Public Accountant)	
License Number 19960)	
)	
Respondent.)	
_____)	

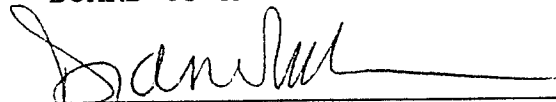
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Accountancy as its Decision in the above-entitled matter.

This Decision shall become effective on AUGUST 27, 1998.

IT IS SO ORDERED JULY 28, 1998.

BOARD OF ACCOUNTANCY



President

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DEPARTMENT OF CONSUMER AFFAIRS
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Against:)	No. AC-97-54
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420 S. Beverly Drive #200)	
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Certified Public Accountant)	
License Number 19960)	
)	
Respondent.)	
)	

PROPOSED DECISION

On May 12, 1998, in Sacramento, California, Leonard L. Scott, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

Susan I. McCrackin, Senior Legal Analyst, represented the complainant.

There was no appearance by or on behalf of respondent Robert J. Houston. Respondent filed a timely Notice of Defense and request for a hearing pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, pursuant to Government Code section 11500, et seq. Notice was duly given by the Board of the date, time and place of the hearing, pursuant to Government Code sections 11505 and 11509. Respondent did not appear at the hearing, was not otherwise represented, and good cause was not established for that failure to appear. The matter was heard as a default, pursuant to Government Code section 11520.

Evidence was received and the record remained open for the receipt of a certified copy of federal court documents regarding respondent's conviction. Those documents were received on May 19, 1998, and were marked for identification as Complainant's Exhibit 5 and admitted into evidence. The record was closed and the matter was submitted on May 18, 1998.

FINDINGS OF FACT

I

Carol Sigmann, Executive Officer, Board of Accountancy (Board), Department of Consumer Affairs, State of California, filed the Accusation against respondent. Sigmann acted in her official capacity.

II

On March 15, 1974, the Board issued Certified Public Accountant License Number 19960 to respondent. It was in full force and effect at all times until December 1, 1993, when it expired. It has not been renewed since that date.

III

On October 12, 1994, in the United States District Court, Central District of California, in the case entitled United States of America, Plaintiff, v. Robert J. Houston, Defendant, case number CR 94-784(A), respondent was convicted, on his plea of guilty, of violating the provisions of Title 18, United States Code, sections: 371 (conspiracy); 1344 (bank fraud) in conjunction with 2(b) (causing an act to be done); and 1343 (wire fraud) in conjunction with 2(b) (causing an act to be done), felonies.

The circumstances surrounding the conviction are substantially related to the qualifications, functions or duties of a certified public accountant because they evidence a present unfitness to perform the functions authorized by the license in a manner consistent with the public welfare. The facts and circumstances underlying the conviction were that during the period of time from on or about January of 1986 until on or about April 20, 1994, respondent, while acting as a certified public accountant in Los Angeles, California, prepared false tax returns and financial statements which were used by Bruce McNall, owner of the Los Angeles Kings, to defraud four banks of more than \$170,000,000.

IV

The Board entered into evidence a Certification of Costs for the investigation and prosecution of this matter through the filing of Accusation. The total certified costs were \$5,418.42.

DETERMINATION OF ISSUES

I

Cause for discipline of respondent's license for violation of Business and Professions Code section 5100(a) was established by reason of Finding III.

II

Pursuant to Business and Professions Code section 5107, if a licensee is found to have committed a violation or violations, the Board can recover its reasonable costs of investigation and enforcement. In this case the reasonable costs of investigation and enforcement were \$5,418.42, as found in Finding IV.

ORDER

I


Certified Public Accountant License Number 19960, which was issued to respondent Robert J. Houston, is revoked pursuant to Determination of Issues I.

II

Respondent shall pay \$5,418.42 to the Board for the reasonable costs of investigation and enforcement pursuant to Determination of Issues II.

Dated:

June 1, 1998


LEONARD L. SCOTT
Administrative Law Judge
Office of Administrative Hearings

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JOEL S. PRIMES, State Bar No. 42568
Supervising Deputy Attorney General

3 Attorneys for Complainant

4 JUDITH A. ROSE, Senior Legal Analyst
5 1300 I Street, Suite 125
P. O. Box 944255
6 Sacramento, California 94244-2550
Telephone: (916) 324-5394

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8 BEFORE THE
9 BOARD OF ACCOUNTANCY
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation) NO. AC-97-54
12 Against:)
13 ROBERT J. HOUSTON) ACCUSATION
14 420 So. Beverly Drive #200)
Beverly Hills, CA 90212)
15 Certified Public Accountant)
License Number 19960)
16 Respondent.)

17 Carol Sigmann, for causes for discipline,
18 alleges:

19 1. Complainant Carol Sigmann makes and files this
20 accusation in her official capacity as Executive Officer,
21 Board of Accountancy, Department of Consumer Affairs, State
22 of California (hereinafter "Board").

23 2. On March 15, 1974, the Board issued Certified
24 Public Accountant License Number 19960 to Robert J. Houston
25 (hereinafter "respondent"). On December 1, 1993, the license
26 expired and has not been renewed.

27 3. Business and Professions Code (hereinafter

1 "Code") section 5100 provides, in part, that the Board may
2 revoke, suspend or refuse to renew any permit or certificate
3 issued by the Board for unprofessional conduct which
4 includes, but is not limited to, one or any combination of
5 the following causes:

6 "(a) Conviction of any crime substantially related
7 to the qualifications, functions and duties of a certified
8 public accountant or a public accountant."

9 4. Code section 490 provides, in pertinent part,
10 that the Board may suspend or revoke a license when it finds
11 that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions or duties of a
13 certified public accountant.

14 5. Code section 118(b) provides, in pertinent
15 part, that the expiration of a license shall not deprive the
16 Board of jurisdiction to proceed with a disciplinary action
17 during the period within which the license may be renewed,
18 restored, reissued or reinstated. Under Business and
19 Professions Code section 5070.6, the Board may renew an
20 expired license at any time within five years after its
21 expiration.

22 6. Title 16, California Code of Regulations,
23 section 99, provides, in pertinent part, that a crime or act
24 shall be considered to be substantially related to the
25 qualifications, functions or duties of a certified public
26 accountant or public accountant if to a substantial degree it
27 evidences present or potential unfitness of a certified

1 public accountant or public account to perform the functions
2 authorized by his certificate or permit in a manner
3 consistent with the public health, safety or welfare. Such
4 crimes or acts shall include but not be limited to those
5 involving the following:

6 "(a) Fiscal dishonesty or breach of fiduciary
7 responsibility of any kind."

8 "(c) Dishonesty, fraud or gross negligence in the
9 practice of public accountancy or in the performance of the
10 bookkeeping operations described in section 5052 of the
11 Code."

12 7. Code section 5107 provides, in pertinent part,
13 that the Executive Officer may request the administrative law
14 judge to direct any holder of a permit or certificate found
15 guilty of unprofessional conduct involving a felony
16 conviction in violation of subdivision (a) of section 5100 to
17 pay all reasonable costs of the investigation and enforcement
18 of the case, including, but not limited to, attorneys fees.

19 8. Respondent has subjected his license to
20 discipline under Code section 5100(a) on the grounds of
21 unprofessional conduct in that on October 12, 1994, he was
22 convicted by the Court on a plea of guilty of violating
23 provisions of Title 18, United States Code, section 371
24 (conspiracy); Title 18, United States Code, sections 1344
25 (bank fraud) and (2(b)) (causing an act to be done); and
26 Title 18, United States Code, sections 1343 (wire fraud) and
27 (2(b)) (causing an act to be done), felonies, in the United

1 States District Court for the Central District, case number
2 CR 94-784(A), entitled United States of America v. Robert J.
3 Houston.

4 The circumstances surrounding the conviction are
5 substantially related to the qualifications, functions and
6 duties of a certified public accountant or public accountant
7 in that it evidences a present or potential unfitness to
8 perform the functions authorized by his certified public
9 accountant license in a manner consistent with the public
10 health, safety or welfare in that beginning in or about
11 January 1986 and continuing to on or about April 20, 1994, as
12 a certified public accountant in Los Angeles, California, he
13 prepared false tax returns and financial statements used by
14 the Los Angeles Kings owner Bruce McNall to defraud four
15 banks of more than \$170 million.

16 9. Respondent has subjected his license to
17 discipline under Code section 490 in that on October 12,
18 1994, he was convicted of a crime substantially related to
19 the qualifications, functions or duties of a certified public
20 accountant or public accountant, as set forth in paragraph 8.

21 WHEREFORE, complainant prays that a hearing be held
22 and that the Board makes its order:

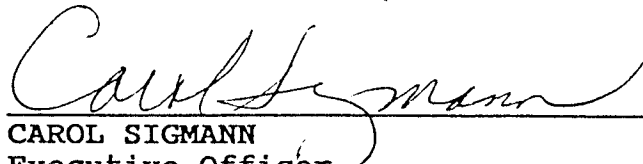
23 1. Revoking or suspending Certified Public
24 Accountant License Number 19960 to Robert J. Houston;

25 2. Ordering Robert J. Houston to pay to the Board
26 all reasonable costs of the investigation and enforcement of
27 the case, including, but not limited to, attorneys fees,

1 pursuant pursuant to Business and Professions Code section
2 5107; and

3 3. Taking such other and further action as the
4 Board deems necessary and proper.

5 DATED: June 30, 1997
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9 CAROL SIGMANN
10 Executive Officer
11 Board of Accountancy
12 Department of Consumer Affairs
13 State of California

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15 Complainant
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25 03541110-
26 SA97AD0751
27 6-18-97(jr)



BOARD OF ACCOUNTANCY
2000 EVERGREEN STREET, SUITE 250
SACRAMENTO, CA 95815-3862
(916) 263-3680



GUIDELINES FOR UNLICENSED FORMER LICENSEES OF THE BOARD OF ACCOUNTANCY

When your CPA or PA license has expired, been canceled, or revoked, you may no longer practice as a Certified Public Accountant or Public Accountant in this state. Further:

- 1) You may not use the title CPA, PA or other titles or indicia which would tend to indicate that you are licensed by this Board. In addition, you may not engage in any advertising which uses terms such as "accountant", "accounting" or "accounting services" unless your "use of those terms is further qualified by an explanation, disclaimer or warning stating that the advertiser is not licensed by the state, or that the services being rendered do not require a state license...." *Moore v. State Board of Accountancy* (1992) 2 Cal. 4th 999 at p. 1023.
- 2) You may perform bookkeeping and other services as may be performed by unlicensed persons. (Business and Professions Code Section 5052)
- 3) Your participation as a principal in a partnership or an officer or shareholder of a professional accountancy corporation must cease during your unlicensed period. You may not share professional fees or have any form of ownership of a professional practice such as a partnership interest or hold shares of a professional accountancy corporation. You may work as an employee of a licensed Certified Public Accountant or Public Accountant or you may work for private industry in an unlicensed capacity. (See Business and Professions Code Sections 5051, 5052, 5053.)